

PATENT COOPERATION TREATY

PCT



INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference PF020131		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/50678	International filing date (day/month/year) 02.10.2003	Priority date (day/month/year) 07.10.2002	
International Patent Classification (IPC) or both national classification and IPC H04N5/00			
Applicant THOMSON LICENSING S.A. ET AL.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 05.05.2004		Date of completion of this report 01.04.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tlx 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer La, V Telephone No. +31 70 340-4287 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/50678

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-21 as originally filed

Claims, Numbers

1-15 as originally filed

Drawings, Sheets

1/7-7/7 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1,11,13,14,15
Inventive step (IS)	Yes: Claims	
	No: Claims	1,11,13,14,15
Industrial applicability (IA)	Yes: Claims	1,11,13,14,15
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following document, cited in the international search report :
D1: WO 00/64172 A (MICROSOFT CORP) 26 October 2000 (2000-10-26)

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 1, 11, 13, 14 and 15 is not new in the sense of Article 33(2) PCT.

1. Independent claim 1

The document D1 discloses :

an interactive television process applicable to a system where at least one transmitting station transmits programmes to receivers (see abstract), comprising

a) reception, in one of said receivers, of a startup application (the trigger) and of a normal application (the television video), and triggering of said startup application causing execution of steps b) to d) below (see page 3 lines 8-12, page 6 lines 13-15, page 14 lines 3-5 and 10-13)

b) testing for the presence in a memory of said receiver of at least one file of additional data (the rules, see page 3 lines 14-16, page 6 lines 16 and 17, page 10 lines 3-18)

c) in the absence of said file of additional data in said memory, starting up of the normal application (see page 3 lines 17-20, page 6 lines 21-26, page 10 lines 16 and 17)

d) if said file of additional data is present in said memory, starting up of an improved application (the merged Web content and television video) using said file of additional data (see page 3 lines 16 and 17, page 5 line 34 - page 6 line 2, page 6 lines 18-20, page 7 lines 14-32, page 14 lines 16-30).

Therefore, the subject matter of independent claim 1 is not new.

In the above reasoning, the following has been considered :

- the trigger, which identifies the information resource and indicates how information from the information resource is to be displayed (see abstract), is seen as an application, the

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- term "application" being not more precisely defined in the claim;
- the normal application received by the receiver is the broadcast television video, while the improved application corresponds to the result of merging the information from the information resource and the television video;
 - there is a test of the presence in the receiver memory of rules, i.e. a file of additional data (see page 10 lines 3-18);
 - using these rules, the improved application is started up.

Should the interpretation of the startup application as being the trigger broadcast along with the television video in D1 be regarded as too far fetched, then the subject matter of claim 1 would differ from this document D1 in that a startup application is received at one of the receivers, is triggered and is causing the execution of the steps b) to d) above, i.e. testing for the presence of additional data at said receiver, and starting up the normal/improved application in the absence/presence of these additional data respectively. The objective problem derived from these distinguishing features could then be considered as how to cause the execution of the testing and application starting up steps - steps b) to d) -. The solution to this problem proposed in claim 1 could not be regarded as involving an inventive step (Article 33(3) PCT) because it would represent merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to provoke the execution of the steps mentioned. Therefore, the subject matter of claim 1 would not involve an inventive step in the sense of Article 33(3) PCT.

While the present application solves the general problem of starting the appropriate version of an application in a receiver, this general problem is not to be confused with the objective problem derived from a problem-and-solution approach, i.e. the problem associated with the features distinguishing the claimed invention from the closest prior art, and mentioned above.

It is to be noted that both document D1 and the claimed invention have similar technical effects, i.e. to offer variable levels of information to receivers (see page 12 lines 15-29 in D1 and page 6 line 28 - page 7 line 4 in the application).

2. Independent claim 11

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The same reasoning as in point 1. applies, *mutatis mutandis*, to the subject-matter of the corresponding independent claim 11, which therefore is also considered not new or not inventive.

3. Independent claim 13

Document D1 discloses :

a process for transmitting applications by a broadcasting station to interactive television receivers (see abstract), wherein said applications comprise a startup application (the trigger) and a normal application (the television video, see page 3 lines 8-12, page 6 lines 13-15, page 14 lines 3-5 and 10-13), said startup application being intended to cause a test for the presence in a memory of at least one of said receivers, of at least one file of additional data (the rules, see page 3 lines 14-16, page 6 lines 16 and 17, page 10 lines 3-18), as well as to start up the normal application in the absence of said file of additional data (see page 3 lines 17-20, page 6 lines 21-26, page 10 lines 16 and 17) and to start up an improved application (the merged Web content and television video) using said file of additional data if said file is present (see page 3 lines 16 and 17, page 5 line 34 - page 6 line 2, page 6 lines 18-20, page 7 lines 14-32, page 14 lines 16-30), said transmitting process preferably being intended to implement said interactive television process in accordance with claim 1.

Therefore, the subject matter of independent claim 13 is not new.

A similar reasoning as in point 1. above to demonstrate the lack of inventive step of claim 13 would also apply here, if the interpretation of the start up application as being the trigger broadcast along with the television video in D1 were regarded as too far fetched.

4. Independent claim 14

The same reasoning as in point 3. applies, *mutatis mutandis*, to the subject-matter of the corresponding independent claim 14, which therefore is also considered not new or not inventive.

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5. Independent claim 15

The reasoning in points 1. or 3. is applicable to show the lack of novelty or inventive step of independent claim 15.